IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 643 OF 2007

Ganesh Prakash Wankar & others ..Applicants
V/s
The State of Maharashtra ..Respondent.

Mr. A.P.Mundargi, Sr. Advocate with Mr. Ganesh Gole, Advocate for the applicants.

Mr. Y.S. Shinde, APP for the State.
Mr. Agandsurve, Advocate for original compliannt to Assist APP.

CORAM : J.H. BHATIA, J.

DATE : 8TH MARCH, 2007.

P.C.

. Heard Mr. Mundargi, learned Counsel for the applicants and Mr. Shinde, learned APP for the State. The applicants seek anticipatory bail in Crime No.8/2007 registered at Salgar Vasti Police Station, Solapur for the offence punishable under Section 302 r/w 34 of Indian Penal Code. Perused the relevant police papers.

2. Admitted fact is that applicant No.1 Ganesh Prakash Wankar and one Deepak Bhatalvande, were contesting election of Ward No. 48 of Municipal Corporation, Solapur. While Deepak Bhatalvande was a

candidate of Nationalist Congress Party, applicant No.1 Ganesh was candidate of Shiv Sena Party. During the election, both were defeated and a third person was elected. However, it appears that there was grievance about campaign by the friends and relatives of these two candidates against each other. It appears that finally on 4/2/2007 at about 11 A.M. a quarrel took place at Ganesh Nagar Tanda, wherein both parties assaulted each other and some members from both the sides were injured. As far as, present applicants are concerned, FIR was lodged by Deepak alleging that applicant No.1 Ganesh armed with baseball stick, while his brother Dattatraya was holding a sword. These persons assaulted Ram Rathod, Deepak Bhatalvande, Pandurang Wankar and prakash Bhatalvande, who is brother of the complainant. Due to this they suffered several injuries. Immediately after the incident the report was lodged by Deepak. It appears that at the same time, Prakash Bhatalvande, brother of Deepak collapsed and was taken to the hospital, where he died. Post mortem report does not reveal any external injury. However, the opinion of cause of death is reserved awaiting the C.A. report and histapathological examination report. Two witnesses of the incident stated before the police that applicant

No.2 Vithal has given fist blows on the abdomen and chest of Prakash Bhatalvande due to which he collapsed and he died. Mr. Mundargi, learned Sr. Counsel vehemently contended that there is no material to show that the offence of murder under section 302 was committed and other injuries are not so serious. He also pointed out that some persons from the side of the present applicants, including applicant No.1 Ganesh himself, had suffered injuries about which they have also lodged a report and counter case is registered. According to him, because of the political rivalry the applicant is likely to be arrested in the serious offence under section 302 of IPC. Application is opposed on behalf of the prosecution.

3. Taking into consideration the circumstances noted above, at this stage it is difficult to say whether the death of Prakash Bhatlvadkar was result of assault and whether it amounts to the offence of culpable homicide amounting to murder, or not amounting to murder but the fact remains that because c of the political rivalry, both the parties assaulted each other, wherein some persons from both sides were injured. The presence of applicant No.2 Vithal is not

only shown but specific role is attributed to him by some of the witnesses. In my opinion, it is not desirable to grant anticipatory bail in such case, it would only encourage the people to take law in their own hands to settle the political disputes against each other and create law and order situation in the society.

4. For the reasons noted above, application stands rejected. The observation made in this application are only for the purpose of deciding this application and will not be taken into consideration as and when the Courts below are required to consider the regular bail application or at the time of trial.

(J.H. BHATIA, J.)